ESTTA Tracking number:

ESTTA1070657

Filing date:

# 07/27/2020

# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91233690
Party	Defendant Rusty Ralph Lemorande
Correspondence Address	RUSTY LEMORANDE 1245 NORTH CRESCENT HEIGHTS BLVD #B LOS ANGELES, CA 90046 UNITED STATES Primary Email: lemorande@gmail.com 323-309-6146
Submission	Other Motions/Papers
Filer's Name	Rusty Ralph H Lemorande
Filer's email	lemorande@gmail.com
Signature	/RH Lemorande/
Date	07/27/2020
Attachments	NOLD - Motion to Clarify Dates.pdf(217299 bytes )

1		NT AND TRADEMARK OFFICE TRIAL AND APPEAL BOARD	
2			
3	IMAGE TEN, INC.		
4	Opposer	Opposition No. <u>91233690</u>	
5	v.	MOTION TO CLARIFY TRIAL DATES	
6	RUSTY LEMORANDE		
7	Applicant		
8	Applicant		
9			
10	MOTION TO CLARIFY TRIAL DATES		
11	Applicant hereby states its disagreement with Opposer's recent assertion as to the schedule of the current Opposition.		
12			
13	On January 17, 2020, the TTAB suspended the current Opposition proceedings. As of this date,		
14	the matter remains suspended.		
15	On February 7, 2020, Applicant filed a Motion for Summary Judgment, unfortunately tardy by a matter of hours.		
16			
17	Out of caution, Applicant, who already experienced both professional and personal delays due to health matters, sought a joint stipulation with Opposer for the filing of his Initial Disclosures.		
18	The stipulation was agreed to, and was, as a result, filed.		
19	Applicant believed (although is not certain) that the prior suspension required that no further filings occur until the TTAP responded to and ruled on the various extent motions. The COVID		
20	filings occur until the TTAB responded to and ruled on the various extant motions. The COVID-19 pandemic also created understandable uncertainty as to the status of the Opposition		
21	proceeding.		
22	Applicant made several calls to the TTAB Interlocutory attorney in the hopes of discussing this matter, and for clarification, however, understanding that due to the Covid-19 complications, return calls should not be automatically expected.		
23			
24	In addition, Applicant has inquired, via email to opposing counsel, as to their understanding of the continuing suspension (Exhibit 1). They responded with the same uncertainty (Exhibit 1) or not at all (Exhibit 1).		
25			
26	Therefore, Applicant believes all actions in the c	surrent Opposition are currently tolled, and the	
27	trial time frames suspended.		
28			

1 2 3 4 5 6 7	Applicant now files this motion to 1) clarify its understanding of the consequence of the suspension, especially as to scheduling, and 2) point out that the filing of its Initial Disclosures is not intended as a waiver of Applicant's reliance on the suspension as to its effect on the scheduling of the trial period.  Applicant respectfully requests that the TTAB, upon the lifting of the suspension, restate the scheduling of all remaining matters in this opposition.  Sincerely,
9	Respectfully submitted this 26 <sup>th</sup> Day of July, 2020
10 11	/Rusty Lemorande/
12	RUSTY LEMORANDE Applicant <i>In Pro Per</i> 1245 NORTH CRESCENT HEIGHTS BLVD #B
<ul><li>13</li><li>14</li><li>15</li></ul>	LOS ANGELES, CA 90046 UNITED STATES lemorande@gmail.com Phone: 323-309-6146
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5	CEDTHEVC A TEL OF CEDVICE
6	CERTIFICATE OF SERVICE
7	This is to certify that a copy of the foregoing <b>MOTION TO CLARIFY TRIAL DATES</b> was served on Opposer's counsel of record in the above-captioned proceedings on July 26 <sup>th</sup> , 2020,
8	via email correspondence addressed to attorney Cecelia Dickson, <a href="mailto:CDickson@webblaw.com">CDickson@webblaw.com</a> and also to attorney Christopher Sherwin at <a href="mailto:Csherwin@webblaw.com">Csherwin@webblaw.com</a>
9	also to attorney Christopher Sherwin at <u>Csherwin(d/webbiaw.com</u>
10	
11	/Rusty Lemorande/.
12	Rusty Lemorande
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### **Cannot file**

3 messages

#### R.H. Lemorande < lemorande@gmail.com>

Sun, Apr 19, 2020 at 4:20 PM

To: "Cecilia R. Dickson" <cdickson@webblaw.com>, "Christopher P. Sherwin" <csherwin@webblaw.com> Bcc: MyCaseEmails MyCaseEmails <the-lemorande-company-gZYZTXG3fH@mycasemail.com>

Hello:

It's curious but I've been unable to file the stipulation. Please see the attached screenshots.

One shows a claim that the filing number 91233690 is 'invalid'. I've tried multiple times over two days.

The second shows the current TTAB page for the opposition. You'll see it says 'suspended' at the top.

I've marked both in RED in the relevant sections.

Is it possible the TTAB suspended the matter due to the outstanding motion from 2/18/20 and has not filed its own office action on this matter?

I would appreciate any information you can provide.

I called the TTAB last week and left a voice message but haven't heard back yet. I'll try again tomorrow.

Thank you.

Rusty

\_\_

RH Lemorande P.O. Box 46771 LA, CA 90046 tel: 323 309 6146

## 2 attachments

Screen Shot 2020-04-19 at 4.09.14 PM.png 14K



TTAB - Proceeding is INVALID.png 160K

Christopher P. Sherwin < CSherwin@webblaw.com>

To: "R.H. Lemorande" <a href="mailto:receilia">lemorande@gmail.com</a>, "Cecilia R. Dickson" <CDickson@webblaw.com>

Cc: "Gina M. Vadala" < GVadala@webblaw.com>

Hi Rusty:

We are not aware of any reason as to why you are having difficulties filing the stipulation. We assume, however, that you will be making your disclosures by the deadlines we discussed last week. We will await further notice from you once you hear back from the TTAB.

Chris

Mon, Apr 20, 2020 at 10:34 AM



# Christopher P. Sherwin | Attorney at Law

The Webb Law Firm

One Gateway Center | 420 Ft. Duquesne Blvd., Suite 1200 | Pittsburgh, PA 15222 | USA P 412.471.8815 | F 412.471.4094 | CSherwin@webblaw.com

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R.H. Lemorande < lemorande@gmail.com>

To: "Christopher P. Sherwin" < CSherwin@webblaw.com>

Cc: "Cecilia R. Dickson" <CDickson@webblaw.com>, "Gina M. Vadala" <GVadala@webblaw.com>

I was wondering if you all had a thought as to why it says the opposition is 'suspended'.

Thank you.

[Quoted text hidden]

Sent from Gmail Mobile Tel 323 309 6146

Mon, Apr 20, 2020 at 12:10 PM